IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE EIGHTEENTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION No: 10583 of 1999

Between:

S.K. Tajuddin, S/o. Ghousuddin,

Age 24 years, Muslim, Occu: Mazdoor KTPS,

V-Stage Paloncha, R/o. B-Colony, KTPS

Paloncha, Paloncha Mandal,

Khammam District.

..... PETITIONER

AND

The Chief Engineer/ELEC

O & M/KTPS/V-Stage,

Paloncha – 507 115.

.....RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order, more particularly one in the nature of Certiorari quashing the proceedings passed by the respondent in Memo No.CEE/O&N/KTPS/V-Stage/F.No./D.No.720/99, dated 10.02.1999 as it is illegal and arbitrary in the interests of justice.

Counsel for the Petitioner: MR.G.V.SHIVAJI
Counsel for the Respondent: MRS.E.URMILA (SC FOR RESPONDENT).

The Court made the following:

ORAL ORDER:-

This writ petition is filed challenging the Memo No.CEE/ O&N/KTPS/V-Stage/F.No. /D.No.720/99, dated 10.02.1999, of the respondent by which the petitioner was kept under suspension, pending criminal proceedings in C.C.No.58 of 1999 on the file of the learned Sessions Judge, Khammam.

It seems that the petitioner while working as Mazdoor was involved in a crime, punishable under Section 354 of Indian Penal Code (for short 'IPC'), registered by the Town P.S. Paloncha, Khammam District. In view of the fact that the petitioner was arrested and detained in custody, he was suspended from service with effect from 10.02.1999. There is no dispute that the crime arose outside employment and the trial is still going on. In fact, along with the petitioner one more person by name P.Venkateshwarlu was also an accused (A2). He was also an employee of the respondent organization. However, he was reinstated into service on 15.10.99 itself, whereas, the petitioner was kept under suspension continuously right from 1999 till date, which is arbitrary and illegal.

A detailed counter affidavit has been filed by the respondent denying the allegations made by the petitioner. It is submitted that having regard to the gravity of the charge and in strict consonance of Regulation 11(a)(ii) of A.P. State Electricity Board (Discipline and Appeal Regulations), the petitioner was placed under

suspension from service since a complaint against him for the criminal offence was received by the police and a case was registered and the matter is pending before the Sessions Court at Khammam. However, it is stated that the charge is punishable under Section 354 IPC, which is very grave in nature. Therefore, there is no other option for the respondent except to suspend the petitioner as per the Regulations of A.P. State Electricity Board.

Admittedly, the crime arose outside employment and keeping the petitioner continuously under suspension right from 17.2.1999 till date is not desirable. Therefore, I am of the opinion that it is not in the interest of the organization may be the regulation permits suspension of a person who is involved in a criminal case, but the authorities must consider as to whether the crime arose outside employment or during the course of employment. When the crime arose outside employment, it is not desirable that the employee should be kept under suspension for a long period. The criminal court may take its own time in disposing the matter. There is no necessity for the department to wait for the outcome of the criminal case. In the circumstances, I am of the opinion that keeping the petitioner under suspension for a long time by the respondent is unwarranted.

In the result, the writ petition is allowed and the respondent is directed to revoke the suspension order with immediate effect and permit the petitioner to join duty. However, this will not preclude the department from taking appropriate action as per law after the disposal of the criminal case, pending before the Sessions Court. No order as to costs.

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18.07.2005

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To

1. The Chief Engineer/ELEC

   O & M/KTPS/V-Stage,

   Paloncha – 507 115.

2. 2 CD copies